



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 6, 2016

Ms. S. McClellan
Assistant City Attorney
Criminal Law & Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2016-26963

Dear Ms. McClellan:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 636542 (ORR# 2016-17559).

The Dallas Police Department (the "department") received a request for information related to citations issued to Dallas County school buses or vehicles during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To

¹We note the department failed to comply with its procedural obligations under the Act. See Gov't Code § 552.301(b). However, because sections 552.101, 552.130, and 552.136 of the Government Code can provide compelling reasons to withhold information, we will address the applicability of these exceptions to the information at issue. *Id.* § 552.302.

demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. However, upon review, we find the department has failed to demonstrate any of the information at issue is highly intimate or embarrassing and not of legitimate concern to the public. Accordingly, the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). You have marked personal identification numbers, which you state “would provide access to videos w[ith] license plates visible.” Upon review, we find you have not demonstrated the information you marked consists of access device numbers for purposes of section 552.136. Accordingly, the department may not withhold the information you marked under section 552.136 of the Government Code on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find, with the exception of the information we have marked for release, the department must withhold any discernible license plate numbers and the information you have marked under section 552.130 of the Government Code. Further, you claim the submitted video recordings must be withheld under section 552.130 of the Government Code. Upon review, we find the video recordings contain information subject to section 552.130. You state, and submit a representation from Safelight Program, which states Safelight Program’s vendor lacks the technological capability to redact the motor vehicle record information in the video recordings. Accordingly, the department must withhold the video recordings in their entirety under section 552.130. *See* Open Records Decision No. 364 (1983). However, the remaining information you marked, which we have marked for release, does not consist of motor vehicle record information. Accordingly, the department may not withhold any of the remaining information under section 552.130 of the Government Code.

We note some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental

body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, with the exception of the information we have marked for release, the department must withhold any discernible license plate numbers and the information you have marked under section 552.130 of the Government Code. The department must withhold the video recordings in their entirety under section 552.130 of the Government Code. The department must release the remaining information; however, any information subject to copyright may be released only in accordance with copyright law.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/som

Ref: ID# 636542

Enc. Submitted documents

c: Requestor
(w/o enclosures)